FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Letters Patent Appeal No. 27 of 2006
in Writ Petition No. 2967 of 2005 (pending)
With
Letters Patent Appeal No. 28 of 2006
in Writ Petition No. 4342 of 2005 (Pending)

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

Shri M. G. Bhangde, Advocate for the Appellants.
Shri V. R. Manohar, Advocate for respondent No. 1

CORAM: **J.N.PATEL & A.H.JOSHI,JJ.**
DATED : 15th February, 2006.

The appellants aggrieved by the order passed by Jt. Charity Commissioner, Amravati dated 10.06.2005, challenged the impugned order by filing two Writ Petitions. The grievance of the appellants in both these Letters Patent

Appeals is that the learned Single Judge, while admitting both the writ petitions observed that the elections can be undertaken by present Managing Committee as per the existing schemes, in accordance with law in the meantime during pendency of the petitions.

The contention of the appellants is that the elections can be held only amongst the original nineteen members of the Trust by ignoring the additional members admitted by the Executive Committee i.e. five members on 28.02.2005 and eight members on 23.06.2005. It is submitted that without complying with the orders of the Jt. Charity Commissioner, who directed amendment of the bye-laws, the

Committee Members could not have admitted additional members and proceeded to hold the elections.

It is submitted that though issue of enrollment of the new members is before the learned Single Judge, it has permitted the present Managing Committee to hold elections as per the existing schemes in accordance with law.

On the other hand, Shri Manohar, the learned Senior Advocate appearing for the respondent/original petitioner in W.P.No. 4342/2005 made a proposal that the elections can be postponed with a direction to the learned Single Judge to decide the issue

involved in the two petitions, expeditiously. This is particularly in the backdrop that the petitioner in Writ Petition No. 4342/2005 has impugned the orders passed by the Jt. Charity Commissioner under which he has issued directions to the Trustees of Vidarbha Youth Welfare Society, Amravati to amend the Constitution of the Trust as observed in para No. 16 and 17 of the order passed by the Jt. Charity Commissioner, which according to Shri Manohar, was beyond the jurisdiction of the Jt. Charity Commissioner in exercise of its powers while entertaining applications under Section 41-A of the Bombay Public Trust Act.

We, therefore, dispose of these two

Letters Patent Appeals with a direction that respondent No.1-Trust shall refrain from holding elections till the decision of the Writ Petitions by the learned Single Judge.

Shri Bhangde, the learned counsel appearing on behalf of the appellants submits that it will allow the respondents, who are presently the members of the Managing Committee to continue to hold the office though their term has come to an end and, therefore, this Court should request the learned Single Judge to expedite hearing of the petition.

We find that the anxiety expressed by Shri Bhangde appears to be justified but it will not be proper on the part of this Court to issue

such directions to the learned Single Judge. But it will be highly appreciated, if the learned Single Judge, who seized with hearing of the petition, disposes of the petition as expeditiously as possible, taking into consideration the fact that decision of the two petitions would have direct bearing on the Constitution of the managing committee and if the election is held without deciding the issues raised before the learned Single Judge, it will not be proper as the rights of new Members, who are admitted is yet to be finally decided.

Shri Bhangde submits that this Court may also put a fetter on the powers of the present Managing Committee, whose term has

expired, not to take any major policy decisions during pendency of the two writ petitions.

It is strongly objected to by Shri Manohar, learned Senior Counsel appearing for the Managing Committee which is in Office.

It will be appropriate on the part of the learned counsel for the appellants to make such prayer before the learned Single Judge, who would be in a better position to appreciate, whether such fetters are required to be imposed, considering the time which will be required for disposal of the petition.

The appeals stand disposed of accordingly.

The parties are at liberty to move the

learned Single Judge for fixing the writ petitions filed by them for hearing.

JUDGE JUDGE

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